public records without resorting to the personal knowledge of the person making such a complaint. In the present case, a perusal of the allegations levelled in the impugned order of suspension it has abundantly clear that matters pertaining to completion of government work and verifying bills for payment are in domain of public documents and these charges can be verified from public records and merely because a complaint is not supported by an affidavit would not aid the petitioner in preventing the inquiry proceedings against him.

18. This Court is also of the considered view that in case the allegations are preceded by a preliminary inquiry then the complaint itself loses its relevance as the decision making authority proceeds further on the basis of preliminary inquiry report. In case, in the preliminary inquiry report, the allegations are found to be correct, recommendation is made for a regular disciplinary proceeding against a person whose name has surfaced to be involved in the preliminary inquiry. In such a situation, it cannot be said that the inquiry would be conducted on the basis of an anonymous complaint which is not supported by an affidavit. Therefore, the status of complaint is merely an information on the basis of which a preliminary inquiry is conducted and further proceedings are conducted based on the recommendations of the preliminary inquiry report. Accordingly, this Court does not agree with the arguments raised by learned counsel of the petitioner that the inquiry proceedings should be set aside merely on account of the fact that the complaint in the present case is not supported by an affidavit.

19. In light of the above, this Court does not find any merit in the contentions and the grounds raised by the petitioner. The writ petition being devoid of merits is **dismissed.**

(2024) 11 ILRA 28
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 19.11.2024

BEFORE

THE HON'BLE ALOK MATHUR, J.

Writ A No. 9965 of 2024

Ram Tirath Pno. 802031471 ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
Akhilesh Kumar Pandey

Counsel for the Respondents:
C.S.C.

A. Civil Law – Service Law – Disciplinary Proceedings and Criminal Proceedings – Acquittal in Criminal Proceedings – Effect - Disciplinary proceedings and criminal proceedings are distinct and separate and they do not bar each other. In case an employee is punished in departmental proceedings, it would have no bearing upon the criminal trial even if the allegations are the same and, vis-à-vis, in case an employee is acquitted in the criminal case, it would not have any bearing on the disciplinary proceedings. Each proceeding proceeds on the evidence and material adduced before the respective authorities. Mere acquittal in the criminal case will not diminish, reduce, or extinguish the punishment granted in a disciplinary proceeding. (Para 10)

B. Complaint was made by the petitioner's wife alleging that he had married again during the lifetime of his first wife. On her complaint, disciplinary proceedings were initiated against wherein the charge of bigamy was found proved and, by means of order dated 18.01.2010, the petitioner

was punished by reverting him to the lowest pay scale for a period of three years. Petitioner never challenged the order dated 18.01.2010 and subsequently superannuated on 28.02.2018. With regard to the allegations of bigamy, an F.I.R. was also lodged by his wife, in which case the petitioner was acquitted. On the strength of the acquittal order, the petitioner prayed for a direction to pay arrears for the period 2010 to 2013 on account of deductions made from his salary pursuant to the punishment order. Held – Deductions made in pursuance of a valid punishment order cannot be set aside merely because of the fortuitous circumstance that on similar allegations the petitioner has been acquitted on criminal charges.(Para 9)

Petition dismissed. (E-5)

(Delivered by Hon'ble Alok Mathur, J.)

1. Heard Sri Akhilesh Kumar Pandey, learned counsel for petitioner as well as learned Standing Counsel for respondents.

2. By means of present writ petition, the petitioner has prayed for following prayer:-

"i. Issue a writ order or direction in the nature of mandamus commanding the opposite parties to provide his deducted amount / arrears for the period of 2010 to 2013 in favour of the petitioner as early as possible, in the interest of justice.

ii. Issue a writ order or direction in the nature of mandamus commanding the opposite party No. 3 to decide the representation dated 16.09.2024as contained in Annexure No. 4 as early as possible within stipulated time, in the interest of justice.

iii, Issue any other writ order or direction which the Hon'ble Court may deem fit and proper under the circumstances of the case."

3. It has been submitted that during his service sometime in 2009, an application was made by his wife stating that the petitioner has married again during life of his first wife which is a misconduct. Inquiry was conducted and petitioner was given a show cause notice on 23.12.2009. The petitioner duly replied to the said show cause notice on 08.01.2010 and finding his reply to be evasive, the same was rejected and by means of order dated 18.01.2010 the petitioner was punished by reverting him to the lowest of pay scale for 3 years.

4. The petitioner never challenged the order dated 18.01.2010 and has subsequent superannuated from service on 28.02.2018 from the post of Head Constable. He has further submitted that with regard to the allegations of bigamy a first information report was lodged by his wife being Case Crime No. 4339 of 2009 under Section 494, 498-A I.P.C. at Police Station - Kotwali Nagar, District - Sultanpur. In the said case, the charges were framed and the petitioner was tried but during trial the existence of second marriage could not be established and accordingly, the petitioner was acquitted by means of judgment dated 02.08.2024 passed by Chief Judicial Magistrate, Sultanpur.

5. Merely on the strength of the acquittal order, the petitioner submits that he would now be entitled to the entire deductions made in pursuance of the punishment order dated 18.01.2010 and accordingly a prayer has been made in the present writ petition for a direction to the respondents to pay the arrears for the period 2010 to 2013 for the deduction made

from his salary in pursuance of punishment order.

6. Learned Standing Counsel on the other hand has opposed the writ petition. He has submitted that the order of punishment dated 18.01.2010 was never assailed by the petitioner before any forum and has consequently attained finality. He further submits that the deductions, if any, made only as per the punishment order dated 18.01.2010 and during subsistence of the punishment order the prayer as made by the petitioner in the present writ petition cannot be granted. He submits that merely because the petitioner has been acquitted in a criminal case would have no consequence of the punishment order passed in a disciplinary proceedings.

7. I have heard learned counsel for parties and perused the record.

8. The facts of the present case are not disputed inasmuch as on a complaint made by the wife of the petitioner, disciplinary proceedings was initiated against him for misconduct of bigamy as well as first information report was lodged in Case Crime No. 4339 of 2009 under Section 494, 498-A I.P.C. at Police Station - Kotwali Nagar, District - Sultanpur, the disciplinary proceedings concluded by passing of the punishment order dated 18.01.2010 wherein the charges levelled against the petitioner of bigamy stood proved and he was reverted for the three years to the lowest of the pay scale.

9. The petitioner served in the department 8 years after the order of punishment and superannuated on 28.02.2018 from the post of Head Constable. During his service period, he never challenged the order of punishment dated 18.01.2018 before any authority or forum and accordingly, the said order became final.

10. On the other hand in the criminal proceedings, the charges levelled against the petitioner could not be proved and therefore he was acquitted by the trial court by means of judgment and order dated 02.08.2024 passed by Chief Judicial Magistrate, Sultanpur. It is on the order of acquittal that he has filed the present writ petition seeking a direction that deductions made in pursuance of punishment order dated 18.01.2010 may be restored.

9. Needless to say that the validity of the punishment order dated 18.01.2010 remain unquestioned and accordingly had attained finality. The said order was legal and valid and in case the petitioner had any grievance against the order of punishment, it was open for him to challenge the same in an appeal or before this Court in a writ petition but the petitioner never challenged the same. The deductions made in pursuance of valid order of punishment cannot be set aside merely because of the fortuitous circumstance that on similar allegations, the petitioner has been acquitted on criminal charges.

10. Both the proceedings, namely, disciplinary proceedings and the criminal proceedings are distinct and separate and they do not bar each other. In case the petitioner was punished in departmental proceedings, it would have no bearing upon the criminal trial even if allegations are same and vis-a-vis in case the petitioner is acquitted in the criminal case would not have any bearing on a disciplinary proceedings and each proceeding proceeds on the evidences and materials adduced before the authorities in the said proceedings.

11. In light of the above, this Court is of the considered view that mere acquittal in the criminal case will not diminish, reduce and extinguish the punishment granted in a disciplinary proceedings and accordingly no benefit of the acquittal order can be given to the petitioner in the disciplinary proceedings specially after they have been concluded with award of punishment.

12. In light of the above, this Court does not find any merits in the submissions made by learned counsel for the petitioner. The writ petition is bereft of merits and is accordingly **dismissed.**

(2024) 11 ILRA 31
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 20.11.2024

BEFORE

THE HON'BLE ALOK MATHUR, J.

Writ A No. 10700 of 2024

Amit Yadav Head Constable 112622578 ...Petitioner

Versus

State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
Syed Anzar Husain, Ashutosh Kumar Srivastava, Ram Krishan Sharma

Counsel for the Respondents:
C.S.C.

A. Civil Law - Departmental Disciplinary Proceedings - Uttar Pradesh Police Officer of Subordinate Ranks, (Punishment and Appeal) Rules, 1991 - Rule 14 - Whether during the pendency of the criminal proceedings, the departmental proceedings should be stayed ? - Departmental as well as criminal, both the proceedings can go simultaneously as there is no bar. The question as to whether during the pendency of the criminal proceedings, the departmental proceedings should be stayed depends upon the facts and circumstances of the case. One of the main consideration for staying of the departmental proceedings during the pendency of the criminal trial is to see that the defence of the delinquent Government Servant is not prejudiced in the criminal trial. Court must record a finding that non grant of stay on a departmental proceedings would not only prejudice the delinquent officer, that the matter also involves complicated question of law (Para 15, 16)

B. Civil Law - Departmental Disciplinary Proceedings simultaneously with the criminal trial - In the instant case charges levelled in departmental inquiry and criminal case, emanate from the common incident but the charges in both the proceedings are different. Charges in departmental proceedings relate to violation of the conduct rules and the departmental rules while in the criminal case charge relates to the offence under various sections of the I.P.C. and of the Arms Act. Though the evidence may be common but the legal principles under charges are entirely different. Also petitioner submitted his reply on merits he would be deemed to have subjugated himself to the disciplinary authority. It cannot be said that his defence can be prejudiced during the criminal trial. No infirmity in the departmental disciplinary proceedings simultaneously with the criminal trial. (Para 13, 16)

Dismissed. (E-5)

List of Cases cited:

1. Uttar Pradesh & ors. VsBabu Ram Upadhya, AIR 1961 SC 751

2. Uttar Pradesh & ors. VsBabu Ram Upadhya, AIR 1961 SC 751

3.Ajeet Kumar Nag Vs G.M. (P.J.) Indian Oil Corporation, (2005) 8 JT 425